

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
ST. JOSEPH DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 20-06007-01/05-CR-SJ-DGK
)	
RYAN NEAL MONTGOMERY, et al.,)	
)	
Defendants.)	

ORDER

On March 17, 2021, the grand jury returned a second superseding indictment charging Defendants Joshua Howland, Thomas Moore, Jr., Ryan Neal Montgomery, and John Jason Vails with one count of conspiracy to advertise child pornography in violation of 18 U.S.C. § 2251(d) and (e); and one count of conspiracy to distribute and receive child pornography in violation of 18 U.S.C. § 2252A(a)(2). Doc. 77. The indictment also seeks forfeiture of any visual depiction described in 18 U.S.C. §§ 2251 or 2252A; any property constituting or traceable to gross profits or other proceeds obtained from such offenses; and any property used or intended to be used to commit or promote the commission of such offenses. *Id.* at 2-3.

On October 1, 2021, counsel for Defendant Ryan Montgomery filed a motion seeking a continuance of the November 1, 2021 trial setting. Doc. 109. According to defense counsel, she “tested positive for the COVID-19 virus in early September, and due to guidelines at her daughter’s school, was in quarantine for approximately three (3) weeks.” *Id.* at 1. Counsel states she was “unable to access her files from the office she shares with other attorneys, and unable to meet with [Defendant] to discuss his case in detail.” *Id.* Furthermore, counsel avers the “sentences pursuant to the guidelines in this matter are extremely high” and additional time is necessary to “discuss and review” with Defendant. *Id.* Defense counsel seeks a continuance to the Joint Criminal Trial

Docket scheduled to commence in February 2022.¹ *Id.* at 2. The motion indicates that counsel for the Government has no objection to the requested continuance. *Id.* at 1. Additionally, defense counsel states that counsel for Defendants Howland and Moore have no objection to the motion.² *Id.*

In any case in which a plea of not guilty is entered, the defendant's trial shall commence within seventy days from the filing of the information or indictment or the date of the defendant's first appearance, whichever comes last. 18 U.S.C. § 3161(c)(1) (Speedy Trial Act). In computing the seventy-day time period, the periods of delay set forth in 18 U.S.C. § 3161(h) are to be excluded. Any period of delay resulting from a continuance granted at the request of a defendant is excludable if the Court finds the ends of justice served by the taking of such action outweigh the best interests of the public and the defendant in a speedy trial, provided the Court sets forth the reasons for such finding. *See* 18 U.S.C. § 3161(h)(7)(A).

In light of counsel's averments that she was quarantined for approximately three weeks and was unable to access her files at her office, and, as such, needs additional time to discuss and review the case with Defendant Montgomery, the Court finds it would be unreasonable to expect counsel to prepare this case for trial prior to November 1, 2021, and thus, would deny Defendant a right to effective assistance of counsel. Upon consideration of the factors set forth in 18 U.S.C. § 3161(h)(7)(B), the Court finds that the ends of justice served by granting a continuance outweigh the best interests of the public and the defendant in a speedy trial. The Court, in ordering this case

¹ Counsel's motion requests a continuance to the "February 22, 2022, trial docket" (Doc. 109 at 2) however, the first day of the February Joint Criminal Trial Docket is February 14, 2022.

² Defendant John Jason Vails (5) is set for a change of plea hearing on October 20, 2021 and, as such, his position on the requested continuance was not obtained. *See* Doc. 108.

removed from the November 1, 2021 Joint Criminal Jury Trial Docket, is not doing so because of congestion of the Court's calendar, in accordance with 18 U.S.C. § 3161(h)(7)(C).

For these reasons, it is

ORDERED that Defendant Montgomery's motion to continue (Doc. 109) is GRANTED. This case is removed from the November 1, 2021 Joint Criminal Jury Trial Docket and is set for trial on the Joint Criminal Jury Trial Docket that commences on February 14, 2022. It is further

ORDERED that a pretrial conference is set for January 27, 2022 at 9:30 a.m. in Courtroom 6D. It is further

ORDERED that the time between the date of this Order and February 25, 2022 which is the last day of the February 14, 2022 Joint Criminal Jury Trial Docket, shall be excluded in computing the time within which this trial must commence pursuant to 18 U.S.C. § 3161(h).

IT IS SO ORDERED.

DATE: October 1, 2021

/s/ W. Brian Gaddy
W. BRIAN GADDY
UNITED STATES MAGISTRATE JUDGE